

Service Date: October 15, 2004

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER OF the Petition of)	UTILITY DIVISION
Southern Montana Telephone Company)	
For Suspension of the Federal Communications)	DOCKET NO. D2004.3.39
Commission Requirement to Implement Wireline/Wireless)	
Number Portability Pursuant to 47 U.S.C. § 251(f)(2))	ORDER NO. 6558k

ORDER
APPROVING STIPULATION
AND TERMS AND CONDITIONS OF IMPLEMENTATION
OF NUMBER PORTABILITY
SOUTHERN MONTANA TELEPHONE COMPANY

I. Background

1. On March 11, Southern Montana Telephone Company, (Southern) through its representative Montana Telecommunications Association, pursuant to 47 U.S.C. § 251(f)(2), filed for a suspension of the requirements of 47 U.S.C. § 251(b)(2) to implement number portability to wireless carriers, as required by the Federal Communications Commission (FCC) in CC Docket No. 95-115, *In the Matter of Telephone Number Portability*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, Released November 10, 2003.

2. On April 6, 2004 the Commission granted Southern's request, through MTA, for a temporary suspension of the number portability requirements.¹ On March 15, 2004 Southern, through MTA, filed a petition for a long term suspension of the number portability requirements, which was assigned PSC Docket No. D2004.3.39. That docket was consolidated with D2004.3.44, and D2004.3.44 was closed. The Commission entered a procedural schedule and set the matter for a hearing.

¹ Order No. 6553 in PSC Docket No. D2004.3.37, service date April 14, 2004.

3. Discovery took place, the parties filed pre-hearing motions, and on September 8, 2004, a hearing was held in this matter. All remaining parties to the docket appeared and were present at the hearing.² Southern and Western Wireless (Western) presented a stipulation to the Commission for approval. The Montana Consumer Counsel (MCC) approved and signed the stipulation.

4. At the hearing on September 8, 2004, the Commission took comments and heard the parties with respect to the Stipulation.

II. Findings of Fact and Commission Decision

5. The Commission's statutory authority to suspend the number portability obligations is contained at 47 U.S.C. §251(f)(2), which reads in relevant part:

A local exchange carrier with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide may petition a State commission for a suspension or modification of the application of a requirement or requirements of subsection (b) or (c) to telephone exchange service facilities specified in such petition. The State Commission shall grant such petition to the extent that, and for such duration as, the State commission determines that such suspension or modification

(A) is necessary - -

(i) to avoid a significant adverse economic impact on users of telecommunications services generally;

(ii) to avoid imposing a requirement that is unduly economically burdensome, or;

(iii) to avoid imposing a requirement that is technically infeasible; and

(B) is consistent with the public interest, convenience and necessity.

6. 47 U.S.C. §251(b)(2) obligates local exchange carriers to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.

7. Prior to hearing in this matter, Southern and Western presented a Stipulation to the Commission for approval, pursuant to which Southern will implement the requirements of local number portability.

² CenturyTel of Montana initially appeared in this proceeding through the Montana Telecommunications Association, but was dismissed from the docket by separate order based on its representation that it is implementing the number portability requirements of 47 U.S.C. § 251(b)(2) and the FCC's Number Portability Order.

8. The Commission heard comments from all parties with regard to the Stipulation that was submitted for Commission approval at the hearing on September 8, 2004.

9. The Commission approves the terms and conditions contained in the Stipulation.

10. In approving the Stipulation, the Commission finds that the terms and conditions set forth in the Stipulation are the terms and conditions pursuant to which Southern is obligated to offer number porting pursuant to 47 U.S.C. § 251(b)(2) and 47 U.S.C. § 251(f)(2).

11. The Commission further finds that Western has represented to the Commission that Western has implemented wireless number portability, as required by the FCC, including its obligations to provide wireless to wireline porting pursuant to the terms set forth in Paragraph 22 of the FCC's Number Portability Order, CC Docket No. 95-116.

III. Order

THEREFORE, IT IS HEREBY ORDERED,

1. The Commission has jurisdiction over this matter pursuant to 47 U.S.C. § 251(f)(2) and § 69-3-834 MCA.

2. The Stipulation entered into between Western and Southern is attached hereto, and is approved in its entirety and incorporated in this Order as if fully set forth herein.

3. Southern's obligation to provide number portability to requesting carriers pursuant to 47 U.S.C. § 251(b)(2) is modified as authorized by 47 U.S.C. § 251(f)(2) consistent with the terms and conditions of the Stipulation and this Order.

4. This Order is a final decision as to Southern, and Southern is hereby dismissed from the docket and this docket is closed as to Southern.

Done and Dated this 8th day of September, 2004 by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Judy Scheier
Assistant Commission Secretary

(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See ARM 38.2.4806.